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Recreation, the California Native Plants Society, the Sierra Club, and the Planning and Conservation League, all of which include more detailed discussion of the DPEIR/S' deficiencies in this area.

O069-12

INADEQUATE ANALYSIS OF GROWTH-INDUCING IMPACTS

It can hardly be denied that the Project will have significant growth-inducing impacts. While the Project's major termini (e.g., San Francisco, Los Angeles, Sacramento, and San Diego) are built out to the point where the addition of HSR service would not be expected to induce a significant amount of additional growth in these central cities, the same cannot be said for many of the smaller cities along the proposed HSR corridor. Indeed, submissions from cities such as Merced, Fresno, Los Baños, and particularly Palmdale make it clear that these cities anticipate, and indeed relish, the additional growth impetus that the HSR line would provide. However, the DPEIR/S fails to include any analysis of the impacts from the additional growth that would be induced in these and other areas by construction of the Project. These impacts will almost certainly be significant.

To begin with, many of these areas are currently considered to be too far from the "core" cities of Los Angeles, San Francisco, San Diego, San Jose or Sacramento to be seen as attractive locations for commuters to live. The high speed rail line has the potential to change that, and consequently induce construction of large amounts of housing and related community services for commuters to/from the core cities along the HSR line. This is obvious for Palmdale, but it is equally true for other cities, particularly those, such as Los Baños, that have not as of yet developed any sizeable commuter population. The EIR needs to analyze and evaluate the impacts related to this additional growth. Primary among these, especially for currently agricultural areas such as Los Baños, will be the conversion of agricultural land to nonagricultural uses. The current DPEIR/S fails totally to even acknowledge the potential for additional conversion of agricultural lands due to the Project's growth-inducing impacts, never mind determining whether those impacts are significant (which they almost certainly will be), and, if so, how they might be mitigated and if, after mitigation, they would still be significant.

There would be numerous other growth-inducing impacts of the project as proposed. The additional growth that the project would induce would, if not mitigated, further increase the potential for sprawl development along the lines of what has happened in, for example, the San Fernando Valley[29]. This sprawl development tends to be inefficient in its use of energy, water, and other resources and utilities, particularly when compared with the relatively more compact and focused core city urban development that might occur without the Project. The EIR/S again needs to evaluate the significance of these secondary impacts, and, if significant, consider ways (such as general plan and zoning amendments to encourage higher density, more efficient, land uses in areas along the Project route) that significant impacts might be mitigated.

As noted earlier, if the analysis indicates there would be significant impacts, whether primary or secondary, that were not identified in the DPEIR/S, the revised EIR/S will need to be recirculated.

[29] The DPEIR/S asserts, without supporting evidence, that the HSR system will promote "smart growth" in cities along its length. While this might be true if access to the HSR system were mainly via public transit, the DPEIR itself acknowledged that many if not most HSR passengers will access the system by private automobiles. Such auto-oriented station access will promote sprawl, not smart growth.

INADEQUATE ANALYSIS OF SECONDARY AIR QUALITY IMPACTS

O069-13

The DPEIR/S's analysis of air quality impacts is inadequate for failing to consider secondary air quality impacts related to the project. These are numerous and varied. To begin with, as noted above, the DPEIR/S totally ignores the Project's growth-inducing impacts. Among those impacts will be additional air quality impacts related to the additional new development induced by the Project. Even assuming that the additional air quality impacts related to new commuter trips from this development can be ignored because they are already taken into account in the Project's direct air quality impacts[30], there would still be air quality impacts related to the new commuter households' non-commute trips. These have not been factored into the Project's impact analysis, and will likely significantly increase the Project's air quality impacts.

In addition, the Project assumes that passengers will access the HSR system through one or another travel mode, and, except in highly urban areas such as San Francisco, this travel will also generate additional air quality impacts. This is particularly the case for stations that will depend primarily on private autos for passenger access. As partial mitigation for these impacts, the Project should require that where passengers access the HSR system using a single occupancy vehicle ("SOV"), a significant parking charge be assessed. Proceeds of these parking fees could be used to fund public transit, car pool systems such as rideshare, shared auto use systems such as carshare, and other mitigation measure to encourage access systems that would generate less air quality impacts than SOVs.

Again, if these secondary air quality impacts are significant, or significantly increase the Project's air quality impacts, the revised EIR/S will need to be recirculated.

DEFICIENCY OF ENERGY IMPACT ANALYSIS

O069-14

The DPEIR/S attempts a program level analysis of energy use. However, this analysis is deficient in several respects. The DPEIR/S concludes that the HSR alternative will result in a small increase in electric power use. It concludes that this increase will not be a significant impact. Given California's recent history of electric power shortages, and the likelihood that California's energy use will continue to increase at rates that equal or exceed its power production ability, *any* increase in electric power use should be considered significant.

Further, the DPEIR/S' analysis fails to take into account the consequences of global warming on California's electric power use. The DPEIR/S uses 2020 as the base year for its energy analysis. While it may not yet be possible to predict the exact amount of global warming that will occur by 2020, it is indisputable that a significant amount of global warming will have occurred. Further, a recent article in the Proceedings of the National Academy of Sciences (Emissions Pathways, Climate Change, and Impacts on California, P.N.A.S. 101 (34), 12422-12427 (August 24, 2004)) provides a reasonably reliable range of potential climate impacts based on both conservative and more aggressive modeling. The EIR/S should be revised to include in its analyses the expected effects of this climate change on California's 2020 energy use, particularly summertime peak electric power use due to high temperatures, and

[30] This is, however, in all likelihood not entirely true. Even if the new commuters generally tended to use the HSR line for their commute, they would undoubtedly also use other modes, especially auto, on some occasions. Further, many households have two or more working members, and while one may use HSR, there is no guarantee that the other(s) also would.

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consider its impact on the significance of the further increase caused by implementation of the HSR alternative.

The DPEIR/S analysis of energy use is also deficient for failing to take into account secondary energy impacts related to passenger access to HSR stations, either by automobile or public transit, particularly where this would be through expansion of the roadway or public transit system to provide improved access to the HSR station. The analysis should also include additional energy use related to induced demand caused by such expansions. O069-14 cont

DEFICIENCY OF THE TRAFFIC, CONGESTION, AND PARKING IMPACT ANALYSIS

As noted above, the DPEIR/S is deficient in failing to take into account the expected expansion of local roadway networks and public transit networks to provide passenger access to HSR stations. Likewise, the DPEIR/S fails to acknowledge the potential that these expansions, and related increase in passenger related and induced demand trips could result in significant increases in traffic, congestion, and parking impacts in the vicinity of HSR stations. While detailed analysis would have to be done at the project level, an appropriate program level analysis should be included in the EIR/S, particularly for specific sites already identified for HSR station (e.g., S.F.) and those proposed stations (e.g., Los Baños) where no existing facility exists. If significant potential impacts are identified, appropriate program-level mitigation measures (e.g., standards for traffic and parking in station vicinities and mitigation measures to be implemented if project level analysis indicates that standards would be violated) should also be identified and the EIR/S recirculated for comments. O069-15

DEFICIENCY OF NOISE IMPACT ANALYSIS

The DPEIR/S acknowledges that the Project could have significant noise impacts. As mitigation, the DPEIR/S proposes a general strategy of constructing noise barriers (a.k.a. - sound walls) to contain the noise. (DPEIR/S, page 3-4.26.) The DPEIR/S asserts that such noise barriers would reduce, but not eliminate significant noise impacts, but puts off any more detailed discussion or analysis, including consideration of secondary visual and shadow impacts from the barriers, to the project level environmental analysis. This leaves undetermined whether these secondary impacts would be significant, and, if so, whether they can be fully or partially mitigated. Further, the DPEIR/S totally ignores the secondary impact noise barriers could have on project passengers and employees on trains traversing between the noise barriers. It is well known that noise barriers act primarily not by absorbing noise energy, but by reflecting it back. As a consequence, much of the noise will be reflected back on the high speed rail cars themselves. The EIR needs to evaluate the significance of this secondary impact, not only on the passengers, but even more importantly on the employees such as conductors and engineers who will be subjected to this impact on a daily basis. If the impact is found significant, appropriate mitigation, such as providing additional soundproofing, should be identified, and any secondary impacts from those mitigation measures should also be evaluated for significance. O069-16

Because the DPEIR/S failed to consider and determine the significance of secondary noise impacts, a revised EIR should identify and discuss those impacts. If any of the secondary impacts are found to be significant, the revised EIR will need to be recirculated.

THE DPEIR/S FAILS TO ACKNOWLEDGE THE PROJECT'S POTENTIALLY SIGNIFICANT ENVIRONMENTAL JUSTICE IMPACTS

The DPEIR/S attempt to gloss over the Project's potential to impact on minority and disadvantaged communities, resulting in potentially significant environmental justice impacts. While the DPEIR/S facilely states that areas adjacent to existing rail facilities are generally occupied by industrial or commercially uses, it ignores the significant amount of minority, low income, or otherwise disadvantaged communities located near railroad tracks. Indeed, the very phrase "the other side of the tracks" derives from the generally acknowledged correlation between railroad tracks and the socially disadvantaged. Because the Project's proposed rail alignment largely follows existing rail alignments, it would disproportionately impact the disadvantaged communities living near these alignments. O069-17

While more detailed analysis must be done at the project level, it is not too early to consider the make-up of communities adjoining the proposed alignment and, if this population is disproportionately disadvantaged (as appears almost certain to be the case), the associated disproportionate environmental justice impacts must be acknowledged and appropriate mitigation identified.

DEFICIENCY OF THE CUMULATIVE IMPACT ANALYSIS

As noted earlier, the DPEIR/S incorrectly assumes that expansion of air, highway, and conventional rail facilities are only an alternative to the Project, rather than independent projects that may be implemented irrespective of the Project's approval and implementation. The EIR/S needs to identify other reasonably foreseeable transportation improvement project which could be approved and implemented within the 2004-2020 timeframe used by the EIR/S. In particular, the EIR/S should assume that all projects in the existing California STIP will be implemented by 2020. The EIR/S should also assume implementation of all other proposed air and rail improvement projects within California. In addition, the analysis should take into account projected growth in California cities and counties and in their transportation networks. These figures should be factored into both the no project, HSR, and alternative mode analyses. O069-18

As discussed earlier under energy impacts, the EIR/S should also take into account reasonably foreseeable future changes in energy supply and demand, including specifically demand and production of petroleum products and electric power. The cumulative impacts related to these changes should be included in analyses of project impacts.

Finally, the EIR/S should include in its discussion of cumulative growth inducing impacts the cumulative impact of the Project in addition to the growth inducing impacts of future growth of California population and employment. In particular, effects on the growth of peripheral cities near California's job and housing centers (e.g., Tracy, Modesto, Los Baños, Palmdale) should be considered and discussed, particularly as they related to induced sprawl development.

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THE MITIGATION "STRATEGIES" IDENTIFIED IN THE DPEIR/S FAIL TO PROVIDE TRUE MITIGATION, EVEN AT THE LEVEL OF A PROGRAMMATIC EIR/S.

Mitigation measures are a key element in the analysis of environmental impacts in an EIR or EIS. Once an EIR or EIS has identified a significant environmental impact, it must go on to explore feasible mitigation measures that could reduce that impact.

The DPEIR/S purports to include such mitigation measures, but it calls them "strategies" rather than measures. The DPEIR/S's discussion of these strategies consists, in the main, of generalities about the potential for the strategies, if applied at the project level of analysis, to reduce the significance of impacts. However, at least under CEQA, impact mitigation at the programmatic level requires more than merely a promise to study mitigation further at the project level. First, it requires demonstrating that mitigation is truly feasible. Then, it requires some kind of a commitment to achieve at least a certain level of mitigation. For example, such a commitment can be achieved by setting a standard for impact mitigation, and committing the agency to meeting that standard during project-level environmental review.

The DPEIR/S fails to meet either of these requirements for programmatic mitigation of impacts. For example, in the discussion of land use impacts, while the DPEIR/S does disclose the potential for significant land use incompatibilities as a result of implementing either the HSR or modal alternative, it fails to commit itself to any form of mitigation at the program level. Instead, it totally puts off consideration of mitigation levels to the project level. At the very least, at the program level the EIR/S needs to identify standards or other appropriate mitigation at the program level. Otherwise, the EIR/S needs to acknowledge that the impact remains potentially significant.

O069-19

THE RIDERSHIP AND REVENUE FIGURES USED TO DETERMINE FINANCIAL FEASIBILITY ARE FLAWED AND OUTDATED.

The DPEIR/S makes numerous determinations as to the financial feasibility of various project alternatives, notably the Altamont Pass Alternative. These determinations are based in large part on ridership and revenue studies previously done for the CHSRA by Charles River Associates. As noted earlier, these studies are based on population and travel information that is now significantly outdated. In particular, there has been much additional growth in the Pleasanton-Dublin-San Ramon and the Tracy-Stockton-Modesto areas. This would increase the projected ridership and revenue for an Altamont alternative. By contrast, population in the San Jose area has actually decreased since 2000. Therefore the DPEIR/S' ridership and revenue figures, just based on population change, overestimate the benefits of the Pacheco and Diablo Direct alternatives and underestimate those of the Altamont alternative.

In addition, again as previously pointed out, the Charles River Associates ridership and revenue figures are based on the assumption that Altamont trains would serve either Oakland or San Jose or San Francisco, and would run at the same frequency as for the southern mountain crossing alternatives. This assumption is unwarranted. Obviously, train frequencies should and would be dictated by the ridership demand of each route. Even the Charles River Associates studies indicate that San Francisco would have higher ridership than San Jose, and much higher ridership than Oakland. Consequently, even assuming the same total number of trains are deployed for Altamont as for the Southern mountain crossing alternatives, far more than one third would go to San Francisco and far less than one third would go to Oakland. If the ridership and revenue figures were adjusted accordingly, the Altamont

O069-20

alternative would have higher ridership and revenue than either Southern mountain crossing alternative. Even these figures underestimate the true ridership and revenue potential of the Altamont route, because they do not include Sacramento – San Francisco service (service that would be negligible for the Southern mountain crossing alternatives) or express commuter ridership (for example, from Merced, Stockton or Tracy to San Francisco). Again, this ridership would be negligible for the Southern mountain crossing alternatives.

O069-20 cont

The ridership and revenue projections need to be revised and updated to reflect current population conditions and reasonable assumptions about the operating parameters for HSR service. Any determinations made based on the prior ridership and revenue analysis need to be revisited, and the entire analysis and conclusions should then be recirculated for public review.

CONCLUSION

The DPEIR/S is inadequate in many significant respects. TRAC/CRF believes that the most appropriate way to proceed would be to prepare a new DPEIR/S that would incorporate the proper analyses and respond to the many comments which the CHSRA will undoubtedly receive on this significant project and its impacts. The new DPEIR/S should then be recirculated for comments and responses. TRAC/CRF also believes it may be appropriate, given the many problems in the preparation of the present DPEIR/S and more generally with the operation of the current CHSRA, for the governor and legislature to reexamine the basic structure of the CHSRA as the body responsible for implementing California's future HSR system. This project is far too important to be allowed to proceed in the way it has thus far.

Most sincerely,

Stuart M. Flashman

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Attachment A